

**§ 660.55 Allocations.**

(a) *General.* An allocation is the apportionment of a harvest privilege for a specific purpose, to a particular person, group of persons, or fishery sector. The opportunity to harvest Pacific Coast groundfish is allocated among participants in the fishery when the OYs for a given year are established in the biennial harvest specifications. For any stock that has been declared overfished, any formal allocation may be temporarily revised for the duration of the rebuilding period. For certain species, primarily trawl-dominant species, beginning with the 2011–2012 biennial specifications process, separate allocations for the trawl fishery and nontrawl fishery (which for this purpose includes limited entry fixed gear, open access, and recreational fisheries) will be established biennially or annually using the standards and procedures described in Chapter 6 of the PCGFMP. Chapter 6 of the PCGFMP provides the allocation structure and percentages for species allocated between the trawl and nontrawl fisheries. Also, separate allocations for the limited entry and open access fisheries may be established using the procedures described in Chapters 6 and 11 of the PCGFMP and this subpart. Allocation of sablefish north of 36° N. lat. is described in paragraph (h) of this section and in the PCGFMP. Allocation of Pacific whiting is described in paragraph (i) of this section and in the PCGFMP. Allocation of black rockfish is described in paragraph (l) of this section. Allocation of Pacific halibut bycatch is described in paragraph (m) of this section. Allocations not specified in the PCGFMP are established in regulation through the biennial harvest specifications and are listed in Tables 1 a through d and Tables 2 a through d of this subpart.

(b) *Fishery harvest guidelines and reductions made prior to fishery allocations.* Beginning with the 2011–2012 biennial specifications process and prior to the setting of fishery allocations, the OY is reduced by the Pacific Coast treaty Indian tribal harvest (allocations, set-asides, and estimated harvest under regulations at § 660.50); projected scientific research catch of all groundfish species, estimates of fishing mortality in non-groundfish fisheries and, as necessary, set-asides for EFPs. The remaining amount after these deductions is the fishery harvest guideline or quota. (*Note:* recreational estimates are not deducted here).

(1) Pacific Coast treaty Indian tribal allocations, set-asides, and regulations are specified during the biennial harvest specifications process and are found at § 660.50 and in Tables 1a and 2a of this subpart.

(2) Scientific research catch results from scientific research activity as defined in regulations at § 600.10.

(3) Estimates of fishing mortality in non-groundfish fisheries are based on historical catch and projected fishing activities.

(4) EFPs are authorized and governed by § 660.60(f).

(c) *Trawl/nontrawl allocations.* (1) Beginning with the 2011–2012 biennial specifications process, the fishery harvest guideline or quota, may be divided into allocations for groundfish trawl and nontrawl (limited entry fixed gear, open access, and recreational) fisheries. IFQ species not listed in the table below will be allocated between the trawl and nontrawl fisheries through the biennial harvest specifications process. Species/species groups and areas allocated between the trawl and nontrawl fisheries listed in Chapter 6, Table 6–1 of the PCGFMP are allocated based on the percentages that follow:

ALLOCATION PERCENTAGES FOR LIMITED ENTRY TRAWL AND NON-TRAWL SECTORS SPECIFIED FOR FMP GROUNDFISH STOCKS AND STOCK COMPLEXES

Stock or complex	All non-treaty LE trawl sectors %	All non-treaty non-trawl sectors %
Lingcod .....	45 .....	55
Pacific Cod .....	95 .....	5
Sablefish S. of 36° N. lat. ....	42 .....	58
PACIFIC OCEAN PERCH .....	95 .....	5
WIDOW .....	91 .....	9

## Fishery Conservation and Management

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### ALLOCATION PERCENTAGES FOR LIMITED ENTRY TRAWL AND NON-TRAWL SECTORS SPECIFIED FOR FMP GROUND FISH STOCKS AND STOCK COMPLEXES—Continued

Stock or complex	All non-treaty LE trawl sectors %	All non-treaty non-trawl sectors %
Chillipepper S. of 40°10' N. lat. ....	75 .....	25
Splitnose S. of 40°10' N. lat. ....	95 .....	5
Yellowtail N. of 40°10' N. lat. ....	88 .....	12
Shortspine N. of 34°27' N. lat. ....	95 .....	5
Shortspine S. of 34°27' N. lat. ....	50 mt .....	Remaining Yield
Longspine N. of 34°27' N. lat. ....	95 .....	5
DARKBLOTCHED .....	95 .....	5
Minor Slope RF North of 40°10' N. lat. ....	81 .....	18
Minor Slope RF South of 40°10' N. lat. ....	63 .....	37
Dover Sole .....	95 .....	5
English Sole .....	95 .....	5
Petrale Sole .....	95 .....	5
Arrowtooth Flounder .....	95 .....	5
Starry Flounder .....	50 .....	50
Other Flatfish .....	90 .....	10

(i) *Trawl fishery allocation.* The allocation for the limited entry trawl fishery is derived by applying the trawl allocation percentage by species/species group and area as specified in paragraph (c) of this section and as specified during the biennial harvest specifications process to the fishery harvest guideline for that species/species group and area. For IFQ species other than darkblotched rockfish, Pacific Ocean Perch, and widow rockfish, the trawl allocation will be further subdivided among the trawl sectors (MS, C/P, and IFQ) as specified in §§ 660.140, 660.150, and 660.160 of subpart D. For darkblotched rockfish, Pacific Ocean Perch, and widow rockfish, the trawl allocation is further subdivided among the trawl sectors (MS, C/P, and IFQ) as follows:

(A) *Darkblotched rockfish.* Allocate 9 percent or 25 mt, whichever is greater, of the total trawl allocation of darkblotched rockfish to the whiting fisheries (MS, C/P, and IFQ combined). The distribution of the whiting trawl allocation of darkblotched to each sector (MS, C/P, and IFQ) will be done pro rata relative to the sectors' whiting allocation. After deducting allocations for the whiting fisheries, allocate the remainder of the trawl allocation to the nonwhiting fishery.

(B) *Pacific Ocean Perch (POP).* Allocate 17 percent or 30 mt, whichever is greater, of the total trawl allocation of Pacific ocean perch to the whiting fisheries (MS, C/P, and IFQ combined). The distribution of the whiting trawl allo-

cation of POP to each sector (MS, C/P, and IFQ) will be done pro rata relative to the sectors' whiting allocation. After deducting allocations for the whiting fisheries, allocate the remainder of the trawl allocation to the nonwhiting fishery.

(C) *Widow rockfish.* Allocate 52 percent of the total trawl allocation of widow rockfish to the whiting sectors if the stock is under rebuilding or 10 percent of the total trawl allocation or 500 mt of the trawl allocation to the whiting sectors, whichever is greater, if the stock is rebuilt. The latter allocation scheme automatically kicks in when widow rockfish is declared rebuilt. The distribution of the whiting trawl allocation of widow to each sector (MS, C/P, and IFQ) will be done pro rata relative to the sectors' whiting allocation. After deducting allocations for the whiting fisheries, allocate the remainder of the trawl allocation to the nonwhiting fishery.

(ii) *Nontrawl fishery allocation.* The allocation for the nontrawl fishery is the fishery harvest guideline minus the allocation of the species/species group and area to the trawl fishery. These amounts will equal the nontrawl allocation percentage or amount by species for species listed in paragraph (c) of this section and the nontrawl allocation percentage from the biennial harvest specifications for other IFQ species. The nontrawl allocation will be shared between the limited entry fixed gear, open access, and recreational

fisheries as specified through the biennial harvest specifications process and consistent with allocations in the PCGFMP.

(2) [Reserved]

(d) *Commercial harvest guidelines.* Beginning with the 2011–2012 biennial specifications process, to derive the commercial harvest guideline, the fishery harvest guideline is further reduced by the recreational set-asides. The commercial harvest guideline is then allocated between the limited entry fishery (both trawl and fixed gear) and the directed open access fishery, as appropriate.

(e) *Limited entry (LE)/open access (OA) allocations—(1) LE/OA allocation percentages.* The allocations between the limited entry and open access fisheries are based on standards from the PCGFMP.

(2) *Species with LE/OA allocations.* For species with LE/OA allocations, the allocation between the limited entry (both trawl and fixed gear) and the open access fisheries is determined by applying the percentage for those species with a LE/OA allocation to the commercial harvest guideline plus the amount set-aside for the non-groundfish fisheries.

(i) *Limited entry allocation.* The allocation for the limited entry fishery is the commercial harvest guideline minus any allocation to the directed open access fishery.

(ii) *Open access allocation.* The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual commercial harvest guideline or quota plus the non-groundfish fishery (*i.e.*, incidental open access fishery) amount described in paragraph (b) of this section. The result is the total open access allocation. The portion that is set-aside for the non-groundfish fisheries is deducted and the remainder is the directed open access portion. For management areas or stocks for which quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached.

(A) *Open access allocation percentage.* For each species with a harvest guide-

line or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period (July 11, 1984 through August 1, 1988) for the limited entry program by any vessel that did not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

(B) [Reserved]

(f) *Catch accounting.* Catch accounting refers to how the catch in a fishery is monitored against the allocations described in this section. For species with trawl/nontrawl allocations, catch of those species are counted against the trawl/nontrawl allocations as explained in paragraph (f)(1) of this section. For species with limited entry/open access allocations in a given biennial cycle, catch of those species are counted against the limited entry/open access allocations as explained in paragraph (f)(2) of this section.

(1) *Between the trawl and nontrawl fisheries—(i) Catch accounting for the trawl allocation.* Any groundfish caught by a vessel registered to a limited entry trawl-endorsed permit will be counted against the trawl allocation while they are declared in to a groundfish limited entry trawl fishery and while the applicable trawl fishery listed in subpart D of this part for that vessel's limited entry permit is open.

(ii) *Catch accounting for the nontrawl allocation.* All groundfish caught by a vessel not registered to a limited entry permit and not fishing in the non-groundfish fishery will be counted against the nontrawl allocation. All groundfish caught by a vessel registered to a limited entry permit when the fishery for a vessel's limited entry permit has closed or they are not declared in to a limited entry fishery, will be counted against the nontrawl allocation, unless they are declared in to a non-groundfish fishery. Catch by vessels fishing in the non-groundfish

fishery, as defined at § 660.11, will be accounted for in the estimated mortality in the non-groundfish fishery that is deducted from the OY.

(2) *Between the limited entry and open access fisheries.* Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(g) *Recreational fisheries.* Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish will be set aside for the recreational fishery during the biennial specifications process. These amounts will be estimated prior to dividing the commercial harvest guideline between the limited entry and open access fisheries.

(h) *Sablefish Allocations (north of 36° N. lat.).* The allocations of sablefish north of 36° N. lat. described in paragraph (h) of this section are specified in Chapter 6 of the PCGFMP.

(1) *Tribal/nontribal allocation.* The sablefish allocation to Pacific coast treaty Indian tribes is identified at § 660.50(f)(2), subpart C. The remainder is available to the nontribal fishery (limited entry, open access (directed and incidental), and research).

(2) *Between the limited entry and open access fisheries.* The allocation of sablefish after tribal deductions is further reduced by the estimated total mortality of sablefish in research and incidental catch in non-groundfish fisheries (incidental open access); the remaining yield (nontribal share) is divided between open access and limited entry fisheries. The limited entry fishery allocation is 90.6 percent and the open access allocation is 9.4 percent.

(3) *Between the limited entry trawl and limited entry fixed gear fisheries.* The limited entry sablefish allocation is further allocated 58 percent to the

trawl fishery and 42 percent to the limited entry fixed gear (longline and pot/trap) fishery.

(4) *Between the limited entry fixed gear primary season and daily trip limit fisheries.* Within the limited entry fixed gear fishery allocation, 85 percent is reserved for the primary season described in § 660.231, subpart E, leaving 15 percent for the limited entry daily trip limit fishery described in § 660.232, subpart E.

(5) *Ratios between tiers for sablefish-endorsement limited entry permits.* The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in § 660.231(b)(3), subpart E.

(i) *Pacific whiting allocation.* The allocation structure and percentages for Pacific whiting are described in the PCGFMP.

(1) Annual treaty tribal Pacific whiting allocations are provided in § 660.50, subpart C.

(2) The commercial harvest guideline for Pacific whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the Shorebased IFQ Program. No more than 5 percent of the shorebased allocation may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat. Specific sector allocations for a given calendar year are found in Tables 1a and 2a of this subpart. Set asides for other species for the at-sea whiting fishery for a given calendar year are found in Tables 1d and 2d of this subpart.

(j) *Fishery set-asides.* Annual set-asides are not formal allocations but they are amounts which are not available to the other fisheries during the fishing year. For the catcher/processor

and mothership sectors of the at-sea Pacific whiting fishery, set-asides will be deducted from the limited entry trawl fishery allocation. Set-aside amounts will be specified in Tables 1a through 2d of this subpart and may be adjusted through the biennial harvest specifications and management measures process.

(k) *Exempted fishing permit set-asides.* Annual set-asides for EFPs described at § 660.60(f), will be deducted from the OY. Set-aside amounts will be adjusted through the biennial harvest specifications and management measures process.

(l) *Black rockfish harvest guideline.* The commercial tribal harvest guideline for black rockfish off Washington State is specified at § 660.50(f)(1), subpart C.

(m) *Pacific halibut bycatch allocation.* The Pacific halibut fishery off Washington, Oregon and California (Area 2A in the halibut regulations) is managed under regulations at 50 CFR part 300, subpart E. Beginning with the 2011–2012 biennial specifications process, the PCGFMP sets a trawl mortality bycatch limit for legal and sublegal halibut at 15 percent of the Area 2A constant exploitation yield (CEY) for legal size halibut, not to exceed 130,000 pounds for the first four years of trawl rationalization and not to exceed 100,000 pounds starting in the fifth year. This total bycatch limit may be adjusted downward or upward through the biennial specifications and management measures process. Part of the overall total catch limit is a set-aside of 10 mt of Pacific halibut, to accommodate bycatch in the at-sea Pacific whiting fishery and in the shoreside trawl fishery south of 40°10' N lat (estimated to be approximately 5 mt each).

**§ 660.60 Specifications and management measures.**

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council.

Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the FEDERAL REGISTER.

(b) *Biennial actions.* The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), fishery harvest guidelines, commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks. Management measures will be designed to take into account the co-occurrence ratios of target species with overfished species, and will select measures that will minimize bycatch to the extent practicable.

(c) *Routine management measures.* In addition to the catch restrictions in subparts D through G of this part, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the FEDERAL REGISTER if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year via this process are implemented in paragraph (h) of this section, and in subparts D through G of this part, including Tables 1 (North) and 1 (South) of subpart D, Tables 2 (North) and 2 (South) of subpart E, Tables 3 (North) and 3 (South) of subpart F. Most trip, bag, and size limits, and area closures in the groundfish fishery have been designated “routine,” which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and